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From: Michael Gempton [mailto:
Sent: Tuesday, 17 June 2008 11:42 PM
To: Adjudication
Subject: eBay and Paypal

Dear Mr Samuels,

I have read the eBay notification and their submissions to the ACCC about exclusive dealing. I have also read many submissions against the proposed conduct and the ACCC's draft notice of revocation.

I wholeheartedly agree with the ACCC's draft notice as I believe eBay's proposed conduct would decrease competition and not have an overall public benefit.

In support of my position, I wish to offer one example of a feature beneficial to both buyers and sellers, that would not be available under the proposed conduct. It is a feature that I, as a buyer, have actually used.

The situation is one where an item won at auction was found to be counterfeit. Since the seller had already displayed a lack of integrity by selling a counterfeit product, I was concerned about the possibility of a claim from the seller that the product did not get returned.

In the process of claiming a refund, the payment service negotiated with the seller and arranged for it to be issued, once the item had been returned - to the payment service. Once received and verified by the payment service, the refund was issued to myself (the buyer) and the item returned to the seller.

This feature permitted returns and refunds to be safely arbitrated by a third party. This feature is NOT offered by eBay or Paypal. Due to the lack of competition forces, allowing the proposed conduct would certainly decrease the incentive for Paypal to implement, or even consider, such a feature - despite this feature having clearly identifiable benefits to both buyers and sellers.

I am encouraged by the points raised in the ACCC's draft notice, as it shows the Commission has clearly understood the issues raised in submissions made and has found merit in the stance against the proposed conduct.

Yours faithfully,
M J Gempton